



The Judiciary, State of Hawaii

Testimony to the Senate Committee on Judiciary and Labor

The Honorable Gilbert Keith-Agaran, Chair

The Honorable Maile S.L. Shimabukuro, Vice Chair

Monday, February 2, 2015, 9:30 a.m.

State Capitol, Conference Room 016

by

R. Mark Browning

Senior Judge, Deputy Chief Judge

Family Court of the First Circuit

Bill No. and Title: Senate Bill No. 1027, Relating to Family Court.

Purpose: Provides funds to the judiciary for an additional full-time family court judge position and staff positions for the family court of the first judicial circuit.

Judiciary's Position:

The Judiciary submits this testimony in support of this bill.

The Preamble of this bill captures well the challenges faced by our family court of the first circuit and the resulting impact on the community. The judges and staff of the family court are accustomed to the need to work at, over and above capacity. They have worked not only by smoothly and efficiently processing and hearing cases with great determination. They also continue to seek ways to streamline the process for the public. The judges and staff will continue to do so no matter what the outcome of this bill. The passage of this bill would greatly assist the Family Court of the First Circuit in providing critical judicial services to the community.

This judicial position and three staff positions were created by the Legislature six years ago. We respectfully submit that it is appropriate to fund these positions now.

Although the numbers alone cannot capture the volume of the work faced by these judges and family court staff, we respectfully provide the following statistics from the 2013 Judiciary Annual Report Statistical Supplement*, as follows:

- (1) Juvenile Division: The FY 2012-2013 statistics for the Family Court of the First Circuit show that there were 2, 933 cases pending and 5,453 cases filed. These cases included child abuse and neglect cases, juvenile law violation and status offense cases. Divided amongst 4 judges, that is over 2,000 cases per judge in that fiscal year. The overall total number of cases does not reflect the exponential number of actual hearings; besides the initial hearings and trials, adjudicated cases require many subsequent hearings, over a number of subsequent years. In addition, these 4 judges also manage and preside over our successful “specialty” courts: Juvenile Drug Court, Zero to Three Court, Girls Court, and the specialized drug court for parents in child abuse and neglect cases. In July of last year, we also took on the Voluntary Care to 21 Court – mandated by the Legislature but enacted without funding.
- (2) Special Division: The FY 2012-2013 statistics indicate that the three special division judges also handled over 8,000 pending and new domestic abuse restraining order, paternity, adoption, involuntary commitment, and guardianship cases. These are not simple hearings. Even when the hearing is not a trial, every hearing represents a family with all the complexities found in any family, except these families have additional burdens that require court actions, such as domestic violence.
- (3) Domestic Division: The FY 2012-2013 statistics indicate that the total caseload of pending and newly filed marital actions was over 7,000 cases. As with the other divisions, domestic division judges also have many more hearings than just the number of cases in addition to taking every opportunity to help the parties reach agreement in order to avoid court battles. The contested pre-trial and post-trial hearings are often full evidentiary hearings and the trials are always evidentiary hearings--similar to the cases in the civil division but without sufficient staff support, no jury making the dispositive decisions, and not enough time. Divorce cases, like civil cases, can involve millions of dollars and multiple pieces of property. Unlike civil trials, divorce trials also involve gut- wrenching child custody decisions.

Every hearing and every case in family court require preparation time, time spent on dealing with non-hearing motions and requests, and many other duties that the public does not witness. For example, each judge takes a turn as the 24 hours off-duty on-call judge for emergency mental health commitments. Yet, family court judges and staff are nevertheless able to provide quality services to the community to create solutions for problems facing our kids, speak at schools, and volunteer their time, after-hours, for mock trials and moot courts. Although there are delays due to sheer overwhelming numbers, these same realities are felt across the nation and many other courts have far graver delays. The fact that we are doing as



Senate Bill No. 1027, Relating to Family Court
Senate Committee on Judiciary and Labor
Monday, February 2, 2015, 9:30 a.m.
Page 3

well as we do is a testament to the hard work and creativity of our current judges and staff. Time and again, the judges and staff of family court step up to demonstrate their resolve to serve the community with the available resources. Expanding those resources now would serve the good of the community.

We note, however, that any appropriations from this bill must be in addition to the Judiciary's current budget requests. If the Legislature is inclined to move forward with this funding, we would respectfully request that the appropriation in Section 2 of the bill be amended to read "\$302,592 for FY2016 and \$306,240 for FY2017." These being the salary levels that would be effective for the judge and staff at that time.

We urge favorable consideration for the passage of this bill. Thank you for the opportunity to testify on this measure.

**FAMILY LAW SECTION
OF THE
HAWAII STATE BAR ASSOCIATION**

737 Bishop Street Suite 1450
Honolulu, Hawaii 96813
www.hawaiifamilylawsection.org

CHAIR
ELIZABETH PAEK-HARRIS
elizabeth@epaeklaw.com

VICE-CHAIR / CHAIR-ELECT
DYAN K. MITSUYAMA
dyan@mitsuyamaandrebman.com

SECRETARY
TOM TANIMOTO

TREASURER
NAOKO C. MIYAMOTO

February 1, 2015

TO: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice-Chair
Committee on Judiciary and Labor

FROM: Dyan K. Mitsuyama, Legislative Committee Chair of the
HSBA Family Law Section
E-Mail: dyan@mitsuyamaandrebman.com
Phone: 545-7035

HEARING DATE AND TIME: February 2, 2015 at 9:30 a.m.

RE: Testimony in Support of SB1027

Good Morning Chair and Vice-Chair, and members of the Committee.

My name is Dyan K. Mitsuyama, a licensed attorney here in the State of Hawaii. I have practiced here in Hawaii for about 16 years now mostly concentrating in Family Law matters.

Today I not only speak for myself, but for the Family Law Section (FLS) of the Hawaii State Bar Association, which is comprised of approximately 136 licensed attorneys statewide all practicing or expressing an interest in practicing family law. I serve as the current Legislative Committee Chair as well as Vice-Chair/Chair-Elect of FLS.

The Family Law Section is in strong support of SB1027 as it would provide funding for an additional Family Court judge and staff in the Family Court of the First Circuit, which is much needed now.

It is our understanding that the Family Court intends to use this funding for an additional Judge in the Domestic Division, which currently has only three (3) Judges that handle approximately 4,000 cases each year. Another Judge in this division is much needed.

In 2013, those Domestic Division Judges handled 4,560 hearings and conferences. There are four (4) Juvenile Division judges who handled 2,113 cases and 7,339 hearings in 2013. There are three (3) Special Division judges who handled 11,500 hearings in 2013. Of course, judges also need to process paperwork and handle other case-related matters (such as

reviewing files and reports). This work is not done during a hearing and must be performed at other times.

Clearly, the sheer volume of cases and hearings handled by the Family Court each year requires each judge to carry a heavy caseload. Increasing caseloads cause delays in case processing and overwhelming backlogs in the Court's ability to hold hearings and conferences. Divorce cases last much longer than they need to because of the court's backlog. For example, one could be ready to go to trial today, but the court could not schedule one until at least 4-6 months from today.

And even if there is a trial or a hearing scheduled today, there is no guarantee it will be concluded today. This affects parties and witnesses who have to appear in Family Court. Many have to take off from work for the entire day because we, as family law practitioners, cannot anticipate when/if a hearing will be heard on that day or at what time. On occasions, participants have to return on another day because the Judges are not able to conclude hearings or trials in the time given. This causes not only extreme emotional distress to the litigants who wait patiently for results or Judges' rulings, but it significantly increases the cost of litigation while the parties and/or witnesses lose time/money away from work.

Another full-time Family Court judge would definitely help cure some of the delays that currently exist in Family Court cases.

Thank you for the opportunity to testify in support of SB1027.

NOTE: The comments and recommendations submitted reflect the position/viewpoint of the Family Law Section of the HSBA. The position/viewpoint has not been reviewed or approved by the HSBA Board of Directors, and is not being endorsed by the Hawaii State Bar Association.

KLEINTOP, LURIA & MEDEIROS

A LIMITED LIABILITY LAW PARTNERSHIP

CHARLES T. KLEINTOP
TIMOTHY LURIA
DYAN M. MEDEIROS

DAVIES PACIFIC CENTER, SUITE 480
841 BISHOP STREET
HONOLULU, HAWAII 96813

TELEPHONE:
(808) 524-5183

FAX:
(808) 528-0261

NAOKO C. MIYAMOTO
CATHY Y. MIZUMOTO

EMAIL:
D.Medeiros@hifamlaw.com

TO: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Senate Committee on Judiciary and Labor

FROM: Dyan M. Medeiros
E-Mail: d.medeiros@hifamlaw.com
Phone: 524-5183

HEARING DATE AND TIME: February 2, 2015 at 9:30 a.m.

RE: Testimony in Support of SB1027

Good morning Senator Keith-Agaran, Senator Shimabukuro, and members of the Committee. My name is Dyan Medeiros. I am a partner at Kleintop, Luria & Medeiros, LLP and have concentrated my law practice in the area of Family Law for more than sixteen (16) years. I am also a past Chair of the Family Law Section of the Hawaii State Bar Association. I am here today to testify in support of SB1027.

SB1027 would provide funding for an additional Family Court judge (and support staff) in the Family Court of the First Circuit.

There are four divisions within the Family Court of the First Circuit: the Domestic Division (which handles divorce cases), the Juvenile Division (which handles juvenile law violation/status offenses and child abuse and neglect cases), the Special Division (which handles restraining orders, paternity, adoption, involuntary commitment, and guardianship cases), and the Criminal Division (which handles orders for protection, restraining order violations, and jury trials). The Domestic Division, the Juvenile Division, and the Special Division are all housed at Family Court in Kapolei. The Criminal Division is housed at District Court. In 2013, approximately 50,000 litigants required the service of the Family Court of the First Circuit.

There are currently three (3) Domestic Division Judges who handle approximately 4,000 cases each year. In 2013, those Domestic Division Judges handled 4,560 hearings and conferences. There are four (4) Juvenile Division judges who handled 2,113 cases and 7,339 hearings in 2013. There are three (3) Special Division judges who handled 11,500 hearings in 2013. Of course, judges also need to process paperwork and handle other case-related

matters (such as reviewing files and reports). This work is not done during a hearing or conference and must be performed at other times.

Clearly, the sheer volume of cases and hearings handled by the Family Court each year requires each judge to carry a heavy caseload. Increasing caseloads cause delays in case processing and backlogs in the Court's ability to hold hearings and conferences.

Another Family Court judge would alleviate many of the delays that currently exist in Family Court cases and would allow the Family Court to improve the service it provides to our community.

Thank you for the opportunity to testify in support of SB1027.

February 1, 2015

TO: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice-Chair
Senate Committee on Judiciary and Labor

FROM: P. Gregory Frey
E-Mail: pgfrey@coatesandfrey.com
Phone: 524-4854

HEARING DATE: February 2, 2015 at 9:30 a.m.

RE: Testimony in Support of SB1027

Aloha, Senator Keith-Agaran, Senator Shimabukuro and members of the Committee. My name is P. Gregory Frey, Managing Attorney of Coates & Frey, AAL, LLLC, Hawaii's largest Family Law firm. I am also a former Chair of the Family Law Section of the Hawaii State Bar Association, and former Board member of the Hawaii State Bar Association. I have practiced for about 28 years in Hawaii's Family Court. I am writing in support of SB1027 regarding funding for a new Family Court judge.

My firm handles more divorces every year than any other firm in Hawaii. It is difficult for our clients that have to wait for months for an opportunity for their case to be heard. This delay is an injustice when you consider that Family Court is dealing with one of the most important issues in this world, people's families. Delays cause parents to go without seeing their children, parents and/or the children become financially strapped, and/or assets not being protected.

Family Court matters are emotional cases that touch every part of our community. In 2013 and 2014, approximately 50,000 litigants came to Family Court each year. Family Court has far more motions and cases filed than any other court in Hawaii and the number is increasing each year.

Most Family Court hearings are evidentiary hearings. Judges need to take, hear, and consider testimony and evidence and often do not have enough time to do so, causing hearings to be continued which prolongs the process even further. Judges are only as good as the information presented to them in court. In order to receive all pertinent testimony and evidence and make informed decisions, Judges need more court time than they are currently given. A new Family Court Judge position would give Judges more court time and the workload would be spread out.

February 1, 2015

Page 2

In the Family Court of the First Circuit (Honolulu), there are currently three Domestic Division Judges who handle approximately 4000 cases each year. In 2013, there were about 630 motions to set hearings and 630 settlement conferences. Additionally, there were approximately 3,300 pre and post-divorce hearings in 2013. At one point in 2013, the wait time for a post-divorce motion hearing was 5 months. 2014 has seen an increase of Domestic Division cases, hearings and motions. The wait time isn't getting any better. Often, it is worse!

The above numbers depict the sheer volume of cases that Family Court judges hear each day. Funding the current existing, but unfunded position for a Family Court judge would decrease the wait time for hearings and give judges more time in court to consider evidence with their increasingly heavy caseload.

It is for all of the above reasons that I believe it is essential that funding be provided for the appointment of a new Family Court judge. Thank you for the opportunity to testify in favor of SB1027.

TO: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice-Chair
Senate Committee on Judiciary and Labor

FROM: Jessi L.K. Hall
E-Mail: jhall@coatesandfrey.com
Phone: 524-4854

HEARING DATE: February 2, 2015 at 9:30 a.m.

RE: Testimony in Support of SB1027

Good day Senator Keith-Agaran, Senator Shimabukuro, and members of the Committee. My name is Jessi Hall. I am an attorney whose practice concentrates in Family Law. I am also a past Chair of the Family Law Section of the Hawaii State Bar Association. I am writing in support of SB1027, regarding funding for a new Family Court judge.

In my fourteen years of practicing in Family Court I have personally witnessed the number of filings and delay in hearings dramatically increase. It is difficult for litigants to wait months for an opportunity for their case to be heard. This delay is an injustice when you consider that Family Court is dealing with one of the most important things in this world, people's families. How these cases are handled often have a direct effect on the children. Many children in the juvenile system come from broken homes.

Delays in the system cause parents to go without seeing their children, parents and/or the children become financially strapped, and/or assets not being protected. To the extent that this delay can be reduced would have a direct effect on other state resources, to include but not limited to, the judiciary and public assistance.

Family Court matters are emotional cases that touch every part of our community. In 2014, approximately 50,000 litigants came to Family Court. With the over 17,000 new matters filed in 2014, Family Court has far more motions and cases filed than any other court in Hawaii and the number is increasing each year.

Most Family Court hearings are evidentiary hearings. Judges need to take, hear, and consider testimony and evidence and currently they often do not have enough time to do so, causing hearings to be continued prolonging the process further. Judges are only as good as the information presented to them in court. In order to receive all pertinent testimony and evidence and make informed decisions, Judges need more court time than they are currently given. A new

Family Court Judge position would give Judges more court time and the workload would be spread out.

In the Family Court of the First Circuit (Honolulu), there are currently three Domestic Division Judges who handle approximately 4000 cases each year. In 2013, there were about 630 motions to set hearings and 630 settlement conferences. Additionally, there were approximately 3,300 pre and post-divorce hearings in 2013. At one point in 2013, the wait time for a post-divorce motion hearing was 5 months. The Family Law Bar is so concerned about the situation that several are volunteering their time to act as Settlement Masters and assistants in an attempt to relieve the docket. Others volunteer their time to assist in mediating cases that are set for trial. Then there are those who volunteer their time at the Kapolei Access to Justice Room. Unfortunately though, all of this volunteer time is only a temporary fix.

The above numbers depict the sheer volume of cases that Family Court judges hear each day. Funding the current existing, but unfunded position for a Family Court judge would decrease the wait time for hearings and give judges more time in court to consider evidence with their increasingly heavy caseload.

It is for all of the above reasons that I believe it is essential that funding be provided for the appointment of a new Family Court judge. Thank you for the opportunity to testify in favor of SB1027.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc: [REDACTED]
Subject: *Submitted testimony for SB1027 on Feb 2, 2015 09:30AM*
Date: Friday, January 30, 2015 12:37:54 AM

SB1027

Submitted on: 1/30/2015

Testimony for JDL on Feb 2, 2015 09:30AM in Conference Room CR016

Submitted By	Organization	Testifier Position	Present at Hearing
Kalawai'a Goo	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov